IN THE HIGH COURT OF JUDICATURE AT JABALPUR (MP)

WRIT PETITION NO. 2560 OF 2000

PETITIONERS

1. V.S. Varma, Son of Shri S.R.Varma, aged about 60 years, Occupation : Professor (Commerce) at Durga College Moudhapur Raipur Tahsil and distt. Raipur (MP).

2. U.K. Shrivastava son of late J.K. Shrivastava aged about 60 yrs, Occupation:Professor (Commerce) at Durga College, Moudhapara Raipur, Tahsil and district Raipur (MP).

3. M.K. Haajara son of Late Shri H.C. Haajara, aged about 60 years, Occupation Professor (Commerce) at Durga College Moudhapara, Raipur, Tahsil & Distt. Raipur (MP).

4. A.S. Kalala, son of late Shri S.P. Kalala aged about 60 years, Occupation Professor (Commerce) at Durga College Raipur (MP).

5. Smt. Neevadita Gupta; wife of late Shri H.S. Gupta, aged about 60 years, Occupation:Professor (Philosophy) at Durga College Moudhapara Raipur (MP).

6. Ashok Shukla son of Late Shri B.L. Shukla, aged about 60 years, occupation Professor (History) at Durga College, Raipur (MP).

- Versus -

RESPONDENTS

1. Durga Education Society, a Society registered under Madhya Pradesh Societies Registrikaran Adhiniyam, 1973, through its President Durga Mahavidyalaya Campus, Raipur (MP).

2. President, Durga Education Society, Durga Mahavidyalaya Campus, Raipur (MP).

3. The Officiating Principal, Durga Mahavidyalaya, Raipur (MP).

4. The Commissioner, Department of Higher Education (Non-Government college wing, Hindi Bhawan, Shyamala Hill Bhopal, MP).

5. The State of Madhya Pradesh, Through:Secretary, Department of Higher Education, Vallabh Bhawan, Bhopal (MP)

PETITION UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF AN APPROPRIATE WRIT IN THE NATURE OF MANDAMUS, DIRECTION, CERTIORARI, PROHIBITION OR THE LIKE ETC.

HIGH COURT OF CHHATTISGARH : BILASPUR

Division Bench

Coram : **Hon'ble Shri H.L. Dattu, CJ &**
Hon'ble Shri V.K. Shrivastava, J

WRIT PETITION NO. 2560/2000

PETITIONERS V.S. Varma & Others

Versus

RESPONDENTS Durga Education Society & Others

Present :

Shri P. Diwakar, Sr. Advocate with Shri S.C. Verma, counsel for the petitioners No.1, 3, 4 and 5.

Shri P.K.C. Tiwari, Sr. Advocate with Shri Shashibhushan, counsel for the petitioners No.2 and 6.

Shri Kishore Bhaduri, counsel for respondents No.1, 2 and 3.

Shri Prashant Mishra, Addl. Advocate General for the State/ respondents No.4 and 5.

ORAL ORDER

(Passed on 22nd February, 2007)

The following oral order of the Court was passed H.L. Dattu, C.J.

In this petition filed under Article 226 of the Constitution of India, petitioners, who were working as Professors in second respondent College, have called in question the correctness or otherwise of the communication issued to them by the respondents on 24-3-1999.

2) The relief sought in the writ petition is to quash the impugned order Annexure-P/11 and further permit them to perform their duties till they attain the age of 62 years.

3) During pendency of the petition, by virtue of the interim orders granted by this Court petitioners continued to work till attaining the age of superannuation; namely 62 years.

4) Since the petitioners are now retired from services after attaining the age of superannuation, the relief sought for by the petitioners would not survive for consideration of this Court.

5) Shri Tiwari and Shri Diwakar, learned counsels appearing for the petitioners would submit that the petitioners are entitled for the salary during the period they were prevented from discharging the duties in the respondent College.

6) Per contra, learned counsel appearing for the respondents would submit that the petitioners in this writ petition have not prayed for the aforesaid relief.

7) In our view, in view of the efflux of time, the relief sought for by the petitioners would not survive for consideration of this Court, therefore, the petition requires to be disposed of as having become infructuous. However, liberty requires to be granted to the petitioners to approach the respondent authorities for payment of salary during the period they worked in the respondent College. Accordingly, the following :

Order

(i) The petition is disposed of as having become infructuous. However, liberty is reserved to the petitioners to make appropriate representations before the second respondent for payment of salary during the period they were prevented from discharging their functions in the second respondent College.

(ii) If and when such representations are made, the second respondent is directed to consider the same and pass appropriate orders in accordance with law after affording an opportunity of hearing to the petitioners.

(iii) Ordered accordingly.

Sd/-
Chief Justice

Sd/-
V.K. Shrivatava
Judge